

AGRICULTURE

AGRICULTURAL SEED

1. Types of Activities Regulated

A license is required from the Montana Department of Agriculture (DOAg), with some exceptions, for facilities in the state that condition¹ agricultural seed, for when a person's name and address appear on the label of agricultural seed and for a person who sells agricultural seed in Montana.

Statute: 80-5-120, *et seq.*, MCA

Rule: ARM 4.12.3002, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

A license application for a facility that conditions, labels or sells agricultural seed is available from the DOAg. The application requests the applicant's name, place of business and mailing address; the location of each seed conditioning facility if applying for a seed conditioning plant license; a sample label if applying for a seed labeler's license; and a list of persons who may be selling seed for the company. A license is required for each location where seed is located or sold. Licenses must be renewed annually and expire on June 30th.

Statute: 80-5-130, *et seq.*, MCA

3. Fees

The fee for an out-of-state person selling seed in Montana is \$110. The fee for all other licenses is \$55.

Seed labelers located outside Montana who sell agricultural seed in Montana must report sales and pay an assessment of 20 cents per \$100 in gross annual sales. The report and fee are due July 31st for the preceding 12 month period.

¹ A conditioned seed is dried, cleaned, scarified or altered in a way that changes its purity or germination properties.

Statute: 80-5-130, MCA

Rule: ARM 4.12.3009

4. **Additional Information**

A label is required on all containers of seed sold in Montana. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-5-123, MCA

ANIMAL FEEDING OPERATIONS

1. **Types of Activities Regulated**

A Montana Pollutant Discharge Elimination System (MPDES) permit is required from the Montana Department of Environmental Quality (DEQ) for a concentrated animal feeding operation (CAFO) that has the potential to discharge process wastewater into surface or ground waters of the State of Montana.² A permit is generally required when the following conditions are met:

The facility meets both of the criteria for an animal feeding operation:

- ❶ Animals are stabled, confined and fed or maintained for a total of 45 days or more in a 12-month period (days need not be consecutive); and
- ❷ Crops, vegetation forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the facility.

And the facility meets at least one of the following criteria for a concentrated animal feeding operation:

- ❶ The animal confinement numbers and discharge requirements described in 75-5-801, MCA.
- ❷ The facility is designated as a CAFO by the DEQ. Criteria for designation by the DEQ are described in ARM 17.30.1330

² Section 75-5-103(29), MCA describes a state water as a body of water, irrigation system, or drainage system, either surface or underground. The term does not apply to: ponds or lagoons used solely for treating, transporting, or impounding pollutants; or irrigation waters or land application disposal waters when the waters are used up within the irrigation or land application disposal system and the waters are not returned to state waters.

Other permits may also be required (i.e. stormwater construction). See also: STREAMBEDS, STREAM BANKS, WETLANDS p. 11; and CONSERVATION DISTRICTS p. 1.

Statute: 75-5-801 through 803, MCA

Rule: ARM 17.30.201 through 17.30.1301, *et seq.*

Contact: DEPARTMENT OF ENVIRONMENTAL QUALITY
Permitting and Compliance Division
Water Protection Bureau

2. **Application Requirements**

A CAFO operator applies for a discharge permit by completing *Short Form B* for concentrated animal feeding operations and paying the application fee. The application form requests information on the design and operation of the facility and requires the submission of a map or series of maps. Other items may also be required as part of the application process. Contact the DEQ, Water Protection Bureau for complete application information. See WATER QUALITY PERMITTING, p. 185, for additional information on application requirements and permitting procedures.

3. **Fees**

For a schedule of fees see 75-5-803, MCA.

COMMERCIAL FEED

1. **Types of Activities Regulated**

A license must be acquired from the Montana Department of Agriculture (DOAg) by:

- A. A person who manufactures commercial feed in Montana;
- B. A person who distributes commercial feed in or into Montana; or
- C. A person whose name appears on the label of a commercial feed as a guarantor.
- D. A license is not required for a distributor who distributes only pet food or specialty pet food (food for pets normally maintained in a cage or tank

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such as canaries, goldfish, hamsters, etc.), but these products must be registered with the DOAg.

Statute: 80-9-201, *et seq.*, MCA

Rule: ARM 4.12.219, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. **Application Requirements**

- A-C. A license application for a facility that manufactures, distributes or is a guarantor for commercial feed is available from the DOAg. The application requests the applicant's name, place of business, mailing address, facility location, an indication of whether the facility manufactures feed, distributes feed, or both and an indication of whether or not the person applying for the license is a guarantor. A license is required for each facility, distribution point or point of invoicing. Licenses must be renewed annually and expire on December 31st.
- D. To register a pet food or specialty pet food, the applicant must provide their name and address and a standard list of products being registered. Pet foods and specialty pet foods must be registered annually. The registration is valid from January 1st to December 31st.

3. **Fees**

License Fees: All new applicants must pay a nonrefundable fee of \$100 each calendar year for a license for each facility, distribution point or point of invoicing. License renewals are \$75. The DOAg may collect a \$25 late fee for renewal applications received after January 1st.

Pet Food Registration: The registration fee for each pet food or specialty pet food is \$50.

An inspection fee of 18 cents per ton must be paid on all commercial feeds, excluding pet foods and specialty pet foods.

Statute: 80-9-206, MCA

4. **Additional Information**

A commercial feed must be accompanied by a label containing truthful and appropriate information as it relates to the product and species. Labeling must meet the specific requirements of the statutes and rules.

Statute: 80-9-202, MCA

CROPLAND LEASES ON STATE LANDS

1. **Types of Activities Regulated**

The Board of Land Commissioners may lease state lands for general agricultural use. Cropland leases are based on a crop share rental value of not less than one-fourth of the annual crop or the usual landlord's share prevailing in the area, whichever is greater. See also GRAZING, p. 21.

Statute: 77-6-501, *et seq.*, MCA

Rule: ARM 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

2. **Leasing Procedures**

- 1) Leases go to the highest bidder unless the Board determines that this decision is not in the state's best interest.
- 2) Present leaseholders have a preference right over others seeking to lease the same land. The leaseholder may meet the highest bid made by any applicant by exercising their preference right except under certain conditions when the land has been subleased. Additionally, the preference is valid only if the lessee has not abused any conditions of the lease. Lessees may appeal the bid to the Board if they consider the bid excessive.
- 3) Lease terms are five or 10 years.

Statute: 77-6-201, *et seq.*, MCA

FERTILIZER REGISTRATION

1. Types of Activities Regulated

- A. Fertilizer Registration: Fertilizers and soil amendments, except unmanipulated animal and vegetable manures, must be registered by or on behalf of the manufacturer with the Montana Department of Agriculture (DOAg) before distribution in Montana. It is unlawful to distribute fertilizers or soil amendments adulterated with metals in amounts that exceed the levels identified in DOAg rules.
- B. Fertilizer Distribution License: A license is required from the DOAg to sell or distribute any type of fertilizer or soil amendment.
- C. Anhydrous Ammonia Facilities: Department approval is required for the construction and operation of anhydrous ammonia facilities.

Statute: 80-10-201 and 202 and 80-10-503, MCA

Rule: ARM 4.12.601, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Application Requirements

- A. All applications for fertilizer registration must include the name and address of the applicant; the brand, grade and guaranteed analysis of the fertilizer; and other detailed information about each product as required by the DOAg. Fertilizers or soil amendments that contain a waste or sewage sludge must be identified as such in the registration application. The application must also state the source of the waste and the level of metals in the end product. Registrations expire on December 31st of each year.
- B. A license is required for each fertilizer distribution or handling facility, and may be acquired by completing forms provided by the DOAg. Licenses expire on December 31st of each year.
- C. Applications for an anhydrous ammonia facility must include written approval from the local governing body or a zoning permit issued by the county or town where the facility will be located. Storage tanks and associated equipment must meet applicable safety and design codes at the time of installation.

Statute: 80-10-201, *et seq.*, MCA
80-10-501, *et seq.*, (anhydrous ammonia)

Rule: ARM 4.12.601, 604, 4.12.704 and 706-710

3. **Fees**

The fee for registering each fertilizer and soil amendment is \$20 and \$35 for each specialty fertilizer. An additional \$10 fee is required for fertilizers and specialty fertilizers to fund the ground water protection responsibilities of the DOAg.

New applicants for fertilizer distribution licenses, or those failing to renew by January 1st, pay a nonrefundable \$75 fee. License renewals received before January 1st are \$50.

The DOAg also assesses inspection fees on the tonnage of fertilizer distributed, except for specialty fertilizers and unmanipulated animal and vegetable manures.

Statute: 80-10-103, 201, 202, 207 and 80-15-302, MCA

Rule: ARM 4.12.608

4. **Additional Information**

Commercial fertilizer containers and packaging must be labeled. The labels must be truthful and appropriate to the product and contain specific information required by law.

Statute: 80-10-204, MCA

GRAZING

1. **Grazing Districts**

Three or more livestock operators owning or controlling property in an area may create a state grazing district—a nonprofit cooperative organization regulated by the Montana Grass Conservation Commission and authorized to ensure the protection of range resources. Membership in a district is limited to persons engaged in the livestock business, or those persons' agents, who own or lease forage-producing lands within or near the state district.

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- 1) A permit is required from the state grazing district for a livestock owner or the person in control of the livestock to run the animals at large or under herd within the boundaries of a state district.
- 2) A person may obtain a permit (i.e., a grazing preference) by submitting an application to the district. Temporary permits may be issued to nonmembers on an annual basis.
- 3) Transfer of preferences are not allowed without the written consent of the owner of the property from which the transfer will be made. A transfer is not effective until approved by the Montana Grass Conservation Commission.
- 4) Prior to the transfer, a public hearing must be held before the Board of Directors of the district.
- 5) A person is not required to obtain a permit to graze livestock on land that the person owns or controls within a district if the stock being grazed are kept from running at large and from grazing on any other lands within the district.

Statute: 76-16-201, 76-16-302, 76-16-310 and 76-16-401, *et seq.*, MCA

Contact: STATE GRAZING DISTRICT

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Conservation and Resource Development Division
Montana Grass Conservation Commission

2. State Leases

The DNRC issues leases, through competitive bidding, for grazing on state lands.

Leasing Procedures

- 1) When the DNRC receives an application to lease state lands for grazing purposes, it must advertise for bids on the tract. The tract must be leased to the highest bidder unless the Board of Land Commissioners determines that the bid is not in the state's best interest. All bidding is by sealed bid mailed to the DNRC headquarters in Helena.
- 2) Present leaseholders have a preference right over others seeking to lease the same parcel. A preference right entitles the leaseholder to meet the

highest bid made by any applicant and to appeal the bid to the Board if they consider the bid excessive. Certain conditions regarding subleasing must be met for a leaseholder to exercise their preference right and the preference is valid only if the lessee has not abused any conditions of the lease.

- 3) A person bidding for the lease of state lands must deposit a certified check, cashier's check or money order in an amount equal to 20 percent of the annual rental bid for grazing land and an amount equal to \$1 per acre for agricultural land. The rental rate for leasing state grazing lands is based on the appraised animal-unit-month carrying capacity of the land.
- 4) Lease terms are five or 10 years.

Statute: 77-6-101, *et seq.* and 77-6-201, *et seq.*, MCA

Rule: ARM 36.2.1003 and 36.25.102, *et seq.*

Contact: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION
Trust Land Management Division
Agriculture and Grazing Management Bureau

3. **Federal Leases**

The Bureau of Land Management and the U.S. Forest Service issue grazing leases and grazing permits for federal land administered by those agencies.

Statute: Organic Administration Act
Federal Land Policy and Management Act
Public Rangelands Improvement Act
Taylor Grazing Act, as amended

Rule: 43 C.F.R. § 4100, 36 C.F.R. § 222(A)

Contact: U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Resource Area or Field Office

U.S. DEPARTMENT OF AGRICULTURE
Forest Service
Forest Supervisor

NURSERIES

1. Types of Activities Regulated

- A. Licensing: The Montana Department of Agriculture (DOAg) requires licenses for nurseries that gross \$1,000 or more per year in order to control the spread of plant pests, noxious weeds and exotic plants. A nursery earning less than \$1,000 that submits a notarized affidavit to that effect is exempt from the licensing requirement.
- B. Certification: The DOAg must be notified if any nursery stock or material becomes infested. Nursery stock and growing sites may be inspected by the DOAg and certified as disease free. Applications for inspection and testing of registered stock for certification must be filed with the department by June 1st.

Statute: 80-7-105, *et seq.*, MCA
80-7-122, MCA

Rule: ARM 4.12.1405, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

2. Fees

- A. The license fee for a nursery earning from \$1,000 to \$3,000 on the sale of nursery stock is \$30. For a nursery that earns \$3,000 or more the fee is \$95. The late renewal or new applicant fee is an additional \$25.
- B. Annual plant inspection certificates are \$50.

Statute: 80-7-106, MCA

Rule: ARM 4.12.1405

3. Additional Information

The DOAg may impose and administer quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds and other exotic plants.

Statute: 80-7-402, *et seq.*, MCA (Montana Quarantine and Pest Management Act)

PESTICIDES

1. Types of Activities Regulated

Pesticide Registrations

- A. The manufacturer, formulator or distributor of each pesticide distributed, sold or transported in Montana must **register the pesticide** annually with the Montana Department of Agriculture (DOAg). Registrations expire on December 31st.

Licenses

- B. Commercial, noncommercial and government **applicators** must be licensed annually. Employees of licensed applicators under certain conditions are required to become licensed **pesticide operators**. The department routinely inspects pesticide applicators for compliance with pesticide labeling and state and federal statutes.

Special certification is required for the application of restricted-use pesticides. **Farm applicators** planning to use a restricted-use pesticide must obtain a special-use permit.

- C. **Pesticide dealers** must also be licensed annually. The department routinely inspects pesticide dealers for compliance with pesticide labeling and state and federal statutes.

Aircraft Registration

- D. Pilots must register their aircraft with the Montana Department of Transportation, Aeronautics Division and certify that they have met all Federal Aviation Administration requirements for aerial pesticide applicators.

Statute: 80-8-101, *et seq.*, MCA (Montana Pesticides Act)
80-15-101, *et seq.*, MCA (Montana Agricultural Chemical Ground Water Protection Act)

Rule: ARM 4.10.101, *et seq.* and ARM 4.11.101, *et seq.*

Contact: DEPARTMENT OF AGRICULTURE
Agricultural Sciences Division

DEPARTMENT OF TRANSPORTATION
Aeronautics Division

2. **Application Requirements**

Pesticide Registrations

- A. A person applying to register a pesticide must file a statement with the DOAg that includes the applicant's name and address and the name and address of the person whose name will appear on the label; a complete copy of the pesticide label; the U.S. Environmental Protection Agency registration number if the pesticide is registered and a statement of all claims to be made for it, including directions for use, the trade and chemical name of the pesticide; and if required by the DOAg, a description of tests and the results upon which the claims are based. The state must accept for registration all federally registered products. However, the state may restrict or prohibit the use or sale of a pesticide to prevent harm to individuals, property, plants, trees, animals or fish.

Licenses

- B. The applicant for a **pesticide applicator's license** must file annually with the department prior to pesticide use. The DOAg's application and liability forms must be completed. An operator's license is required for persons employed by a commercial applicator to apply pesticides. A pesticide applicator's and operator's examination or training is also required of each new applicant. Applicants must maintain their qualifications in subsequent licensing years by attending training courses.

Farm applicators using a restricted-use pesticide qualify for their first permit by either passing a graded written exam or attending a training course approved by the DOAg and taking an ungraded written exam. They must also maintain their qualifications by periodically attending training courses. Farm applicators must file for a new special-use permit and attend an approved training program every five years.

- C. An applicant for a **dealer's license** must file annually with the DOAg and pass an examination administered by the department. Dealers are also required to maintain their qualifications in subsequent licensing years by attending training courses.
- D. Individuals applying for a **license for aerial application** of pesticides must certify on the application that they have met all the Federal Aviation Administration and the DOAg requirements for aerial pesticide applicators.

Statute: 80-8-201, 203 through 209, 211 and 80-15-302, MCA

Rule: ARM 4.10.201, 203-209, 401-404 and 501-504

3. **Permitting Procedures**

A. Pesticide Registration

- 1) The Departments of Public Health and Human Services (DPHHS); Agriculture; and Fish, Wildlife and Parks (FWP) must review all applications for registration of an experimental-use permit or registration of a pesticide for special local needs. The departments utilize the same requirements and standards for reviewing registrations as established by the federal Insecticide, Fungicide and Rodenticide Act.
- 2) The DPHHS and FWP must approve or disapprove applications within 10 days after receipt.
- 3) If two of the three departments are in agreement with the proposed registration, the DOAg must issue the registration.

Statute: 80-8-201(8), MCA

4. **Fees**

- A. The fee for each registered pesticide is \$90 annually plus an additional \$95 to fund the ground water protection responsibilities of the DOAg. If the application is for emergency exemptions requested by the state, a special local-need registration or an experimental-use permit registration, the fee is \$90.
- B. The annual fee for a commercial applicator's license is \$55 (\$45 plus a \$10 fee to fund the state's waste pesticide and disposal program). The late renewal fee is \$25.

The fee for commercial pesticide operators is \$25 each for the first two operators and \$10 for each additional operator.

The annual fee for a government applicator's license is \$50 for each of the first four employees and an additional \$10 fee to fund the state's waste pesticide and disposal program. For each additional employee applicator

there is a \$5 fee, and an additional \$10 waste pesticide disposal program fee, with a fee cap of \$600 for an agency.

The fee for a farm applicator special-use permit is \$50 for a five year permit.

- C. The annual application fee for a commercial dealer's license is \$55 (\$45 plus a \$10 fee to fund the state's waste pesticide and disposal program) and \$25 for a late renewal. The annual fee for a government dealer's license is \$60.

Statute: 80-8-201, 203, 205, 207, 209, 213 and 80-15-302(1), MCA

Rule: ARM 4.10.206(4)

5. **Criteria for Registration of Pesticides**

If it does not appear to the DOAg that the pesticide warrants the proposed claims for it or if the article and its labeling do not comply with the Montana Pesticides Act, the department must notify the applicant to allow them an opportunity to make the necessary corrections. If the applicant does not make the corrections, the DOAg may refuse to register the pesticide. The department's decision may be appealed.

Statute: 80-8-201(6), MCA

6. **Disposal**

Empty containers must be safely disposed of according to label instructions. Most empty pesticide containers must be triple rinsed, punctured and recycled or disposed of in a landfill.

Participants in the DOAg's pesticide disposal program pay a fee of \$1 per pound for the disposal of the first 200 pounds or less of acceptable pesticides and 50 cents per pound for amounts in excess of 200 pounds.

Statute: 80-8-111, MCA

Rule: ARM 4.10.1801, *et seq.*

7. Public Notice

The owner or manager of a public building must post a notice at the entryway to a building or room where certain pesticides have been applied that tells the name of the pesticide and a number to call for more information.

Statute: 80-8-107, MCA